C.S. 100/- 1995

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

W.P. NO.(s) 3813 OF 2006

PETITIONER

Smt. Pushpalata Dekate
Aged about 35 years,
W/o Shri Rajendra Dekate
R/o Civil Lines, Rajnandgaon
Occupation: Service
Working as Asstt. Fisheries
Officer, Department of
Fisheries, Rajnandgaon
District Rajnandgaon,
Chhattisgarh

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through Secretary,
Government of Chhattisgarh,
Department of Fisheries
Mantralaya, D.K.S. Bhawan,
Raipur, Chhattisgarh

2. Director,
Directorate of Fisheries
Telibandha, Raipur
Chhattisgarh

3. Chhattisgarh Public Service
Commission, Through its
Secretary, Shankar Nagar,
Raipur, Chhattisgarh

4. Assistant Director
Department of Fisheries
Rajnandgaon,
Chhattisgarh

P.R. No. 3865/06
Presented by Shri Sushma Dhurvey
dated 21/12/06

OATH COMMISSIONER APARNA MALVIYA CG-2073/96 Bilaspur Chhattisgarh

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21/12/06
CLERK TO A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, ORDER/ORDERS, DIRECTION/DIRECTIONS

(65)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP 3813/06 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4.8.2006:-

Shri Ranbir Singh Marhas, counsel for the petitioner.

Shri Vinay Pandey, P.L. for the State/respondents No.1 and 2.

Heard both the counsel.

By the instant petition, the petitioner, who is working as Assistant Fisheries Officer, in the department of Fisheries, Rajnandgaon, has challenged the action of respondents for not appointing her as Assistant Director (Fisheries) even after due selection of the petitioner by the Public Service Commission.

The case of the petitioner is that the petitioner belongs to Halba tribe which is a ST as defined in order issued by the President of India under Article 342 of the Constitution of India. The petitioner took her early education in Khairagarh District Kawardha, which is now within the jurisdiction of the District Rajnandgaon. According to the school record, the caste of the petitioner is Halba, copies of certificates issued in this regard by Principal of Government Girls Higher Secondary School, District Rajnandgaon, School Leaving Certificate issued by Girls Primary School, Khairagarh, Enrolment certificate issued by the Board of Secondary Education, Madhya Pradesh, Bhopal and College Leaving/Transfer Certificate issued by Digvijay Government College, Rajnandgaon, are Annexure-P/1. After passing 9th Class, the petitioner was selected for scholarship. The uncle of the petitioner was also given transfer certificate by Municipal Primary Vidya Mandir, Sindurghat. The educational certificates of the parents of the petitioner also indicate that they belong to Halba caste.

The petitioner appeared in the competitive examination conducted by the Public Service Commission for the post of Assistant Fisheries

P.T.O.

(66)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Officer on 16-8-95. She was selected and posted at Ambikapur. On 8-12-2004, the Chhattisgarh Public Service Commission published advertisement inviting applications for filling the posts of Assistant Director (Fisheries) as a special recruitment drive for filling the backlog vacancies of SC/ST candidates. There were 6 posts and two of them were reserved for ST woman candidates. The petitioner applied, was interviewed and selected by the PSC. She was called for interview on 18-7-2005. The petitioner was 4th in the merit list and her name was recommended to the Government for appointment, but a complaint was made by certain persons who were not selected. The Government issued appointment order of all the selected candidates except the petitioner. The petitioner made various oral and written communication to the authorities, but to no avail. On 6-1-2006, the petitioner made a request to the Principal Secretary, Government of Chhattisgarh, Department of Fisheries that she may also be appointed, but to no avail. Therefore, it has been prayed that respondents be directed to appoint the petitioner on the post of Assistant Director and respondents be directed not to proceed against the petitioner illegally.

At the outset, learned counsel for the petitioner very fairly submitted that the petitioner has been duly selected, on the basis of complaint, appointment has been stayed, and the respondent/State is not doing the needful in the matter in spite of several representations made by the petitioner. He further submitted that respondent/State may conduct the enquiry in accordance with law in order to ascertain the caste status of the petitioner but that should be done within a reasonable time and till the final outcome of the enquiry, the post against which the petitioner has been selected should not be filled.

P.T.O.

(67)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	The prayer made by learned counsel for the petitioner is just, fair and reasonable as the petitioner has already been selected after conducting the interview and her appointment order is not being issued by the State Government merely on the basis of complaint filed by certain persons to the effect that the petitioner does not belong to ST category. In the circumstances, it is fair and reasonable that the competent authority of the State Government may get the enquiry conducted in accordance with law as per the judgment of the Supreme Court in the matter of **Kumari Madhuri Patil & another v. Addl. Commissioner, Tribal Development & others** reported in **AIR 1995 SUPREME COURT 94** as early as possible preferably within a period of 6 months and till the final outcome of the enquiry, the post for which the petitioner has been selected shall be kept vacant. The writ petition is disposed of accordingly. Consequently, M.(W.)P. No.2973/2006 also stands disposed of. Parties are entitled for certified copy of this order. Sd/- L.C.Bhadoo Judge	

Barve

P.T.O.